vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1774 OF 1997

Nisha Padamsingh Rajput
r/o. C/o. D.R. Devare
At & Post: Ganeshpuri,
Tal.:Bhiwandi, Dist.: Thane ... Petitioner

V/s.

1. State of Maharashtra
Education Deptt., Mantralaya
Mumbai

2. Block Education Officer
Panchayat Samiti Bhivandi
Dist.:Thane

3. Chief Executive Officer
Zilla Parishad, Thane

4. Education Officer
Zilla Parishad, Thane ... Respondents

Mr.V.N. Tayade for Petitioner
Mr.R.M. Patne, AGP, for Respondents

CORAM: **S.B. MHASE &**
SMT.NISHITA MHATRE, JJ.

DATED: **MARCH __, 2007**

JUDGEMENT (PER SMT.MHATRE, J.):

. The Petitioner has prayed for a declaration that she has the requisite qualifications for the post of trained Assistant Teacher. She has sought a direction against the Respondents to continue her in the post of trained assistant teacher. The controversy in the Writ Petition has arisen because the Respondents refused to recognise the Diploma in Teaching course of the

Petitioner which she obtained from the Dr.Harisingh Gaur University Sagar (Madhya Pradesh) (for short, hereinafter referred to as 'Sagar University').

2. Admittedly, the Petitioner has completed her Higher Secondary Certificate examination in 1993 and then secured admission to the Diploma in Teaching course in the Sagar University. She successfully completed her Diploma in Teaching on 13.8.1995 and applied for appointment as an Assistant Teacher in the Zilla Parishad, Thane in July 1996. This application was made pursuant to the advertisement published for the post of primary teacher. After being declared successful in the written examination, the petitioner was interviewed and selected for the post of Assistant Teacher in the Zilla Parishad, Thane. On 6.3.1997, she was appointed as a trained assistant teacher in Bhiwandi Taluka and was directed to join service on 17.3.1997. The Diploma in Teaching which the Petitioner had obtained from the Sagar University was recognised by the State of Maharashtra by G.R. dated 4.2.1994 w.e.f. 1982. However, the Diploma was derecognised by the State w.e.f. 31.8.1993. Candidates who had been admitted to the Diploma in Teaching course prior to the cut off date, 31.8.1993, were protected. Consequently, the Petitioner was informed on 15.3.1997 that her Diploma

was derecognised and that she was no longer in service. It appears that the State again recognised the Diploma in teaching by G.R. dated 8.3.1995. According to the petitioner, therefore, she is entitled to continue as a trained assistant teacher as she had the requisite qualifications for that post. The Diploma holders of the Sagar University were required to approach this Court on several occasions in order that their appointments could continue despite the derecognition of the Diploma by the State Government.

3. In the case of *Anil Wamanrao Deshmukh v/s. State of Maharashtra & Ors.,* **Writ Petition No.3325 of 2002** decided by the Division Bench of this Court on 3.2.2005, after considering the judgements of this Court in *Narendra Jadhav vs. State of Maharashtra,* **2000(3) Mh.L.J. 806** held that when the Petitioners in that case joined Sagar University to obtain the Diploma in Teaching, the diploma had been derecognised by the resolution of 31.5.1993 but by a subsequent resolution of 8.5.1995 recognition to the diploma was accorded by the Government and the Petitioners in that case were protected. It was held that the Petitioners who had obtained appointment as assistant teachers on the basis of their diplomas issued by the Sagar University were entitled to have their appointments approved. By the

notification of 8.3.1995, the Government had accorded approval to the diplomas obtained from the Sagar University and had recognised the same. It was therefore held that they were entitled to continue as assistant teachers. In a similar case **(Writ Petition No.3773 of 2002)**, the Division Bench of this Court again considered the question as to whether the Diploma in Teaching course of Sagar University was recognised. This Court held on the basis of the judgment in the case of *Anil Wamanrao Deshmukh v/s. The State of Maharashtra & ors. (supra),* that the Diploma was recognised till it was derecognised in 1999 and that persons who had been appointed to the post after 8.3.1995 and prior to 14.6.1999 were entitled to continue as Assistant Teachers. Similarly, in the case of *Satyajeet Dnyaneshwar Patil v/s. State of Maharashtra & Ors.,* **Writ Petition No.311 of 1997** and in the case of *Prashant Premchand Chanekar v/s. State of Maharashtra & Ors.,* **2006 (2) Mh.L.J. 657,** this Court has held that the Diploma in Teaching course achieved by the teacher after 8.3.1995 was recognised.

4. The aforesaid judgments are applicable to the facts in this case. The Petitioner completed the Diploma in Teaching from Sagar University on 13.8.1995 by which point of time the G.R. dated 8.3.1995 had been

issued by the State of Maharashtra, recognising the Diploma in Teaching from Sagar University. In fact the Petitioner had obtained admission to the course on 26.7.1993 and the derecognition of the course was effected by G.R. dated 31.8.1993. However, all students who had already secured admission by that date were protected. Apart from this, the recognition was again accorded on 8.3.1995 i.e., prior to the Petitioner completing the Diploma on 13.8.1995. Therefore, the grievance of the Petitioner is justifiable. The petitioner is entitled to continue in the post of trained assistant teacher.

5. Rule is therefore made absolute in terms of prayer clause (a) with costs.

(NISHITA MHATRE, J.) (S.B. MHASE, J.)